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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/903,284
Filing Date: July 11, 2001
Appellant(s): BARBARA ET AL.

John M. Harrington
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 03/06/2008 appealing from the Office action mailed 08/10/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,609,113

O'Leary

8-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 1-11, 17-44 and 50-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary et al (O'Leary hereinafter, US PAT: 6,609,113).

Re claim 1. O'Leary discloses a method for making on-line payments (see col.4 lines 36-65), comprising: receiving enrollment information from a user for an on-line payments service (see col.19 lines 11-25, also see col.23 line 65- col.24 line 25); receiving the user's designation of a source account for withdrawing funds for the on-line payments (see col.27 lines 1-15, also see "The user then provides the following information: the

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source'of the funds--checking, credit card, savings, etc.; the dollar amount of the transfer; the funding date; and whether this is one time transfer or a repeat transfer, col.27 lines 4-15); providing a transaction account for the user as a money deposit account accessible via a single account number that the user can use both as a source from which to send funds (i.e., internet pay anyone account (IPA), see col.4 lines 55-60) and a destination into which to receive funds and with at least one of a plurality of service levels (i.e., once the IPA account is established, the user is able to fund this account from its normal DDA checking or savings accounts..... see col.11 lines 60-66, also col.12 lines 30-40, also see col.16 lines 17-30); wherein providing the transaction account for the user with at least one of the plurality of service levels further comprises providing the transaction account for the user with a first level service that includes an on-line person-to-person payment service enabling the user to receive and send funds from the user's transaction account (i.e., IPA account, see the abstract, also col.15 lines 35-45), with a save for later feature enabling the user to accumulate a balance of funds in the user's transaction account for later use (see col.11 lines 62-66, see col.21 lines 15-20) and with a held money feature for retaining funds in the user's transaction account which the user has designated to be sent to a recipient but which has not yet been picked up by the recipient (i.e., this is an inherent feature, since funds designated to be sent is normally held against the payer's account until

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the funds clear or picked up); providing the transaction account for the user with a second level of service that includes all features of the first level of service plus an access card enabling the user to access funds in the user's transaction account for off-line transactions (see fig.4, also see col.21 lines 15-30); allowing the user to have funds reside in the transaction account (see col.11 lines 63-67); and allowing the user to use the funds residing in the transaction account for at least one of making an on-line payment with funds in the transaction account, making an online purchase with funds in the transaction account, making an off-line purchase with funds making a credit card account payment with funds in the transaction account, making a bill payment with funds in the transaction account (see col.15 lines 32-45), and making an international payment with funds in the transaction account (i.e., pay anyone virtually anywhere, see col.4 lines 44-46). O'Leary does not explicitly disclose providing the transaction account for the user with a third level of service that includes all features of the first and second levels of service plus a credit line enabling the user to access both line of credit funds and accumulated balance funds in the user's transaction account. However, official notice is taken that attaching a line of credit to a transaction account is old and well known in the art, such method is well established in commercial banking where regular checking transaction account is tied to overdraft line of credit, enabling customers to overdraft their regular transaction accounts if there is an insufficient fund in the said account to settle a payment. Thus it

would have been obvious to one of ordinary skill in the art to incorporate the old and well-known feature discussed hereinabove into O'Leary to allow funds to be drawn from customer's transaction account even if there is an insufficient fund in the said account to settle a payment.

Re claims 2, 3. O'Leary further discloses the method, wherein receiving the enrollment information further comprises receiving the information from the user on an enrollment page for the on-line payments service (see col.19 lines 11-25, also see col.23 line 65-col.24 line 25).

Re claims 4, 5. O'leary further discloses the method, wherein receiving the enrollment information further comprises receiving information about the user necessary to enable the financial institution to validate that the user is bona fide (see fig.10 element 205, also col.27 lines 30-39).

Re claim 6. O'Leary further discloses the method, wherein receiving the user's designation of the source account further comprises receiving the user's designation of at least one of a credit card account and a deposit account of the user as the source account (see col.27 lines 1-15, also see "The user then provides the following information: the source'of the funds--checking, credit card, savings, etc.; the dollar amount of the transfer; the funding date; and whether this is one time transfer or a repeat transfer, col.27 lines 4-15).

Re claims 7, 8. O'Leary further discloses the method, wherein receiving the user's designation of the credit card account as the source account further comprises receiving information from the user about the credit card account consisting of a credit card number, a credit card expiration date, and a credit card (see col.5 lines 40-50, also see col.27 lines 1-15).

Re claims 9, 10. O'leary further discloses the method, wherein receiving the user's designation of the deposit account as the source account further comprises receiving the user's designation of the deposit account consisting of a least one of a checking account, a debit account, and a money market account of the user as the source account (see col.27 lines 1-15, also see "The user then provides the following information: the source'of the funds--checking, credit card, savings, etc.; the dollar amount of the transfer; the funding date; and whether this is one time transfer or a repeat transfer, col.27 lines 4-15)

Re claim 11. O'Leary further discloses the method , wherein receiving the information about the deposit account further comprises performing a back end validation to confirm that the user is the owner of the designated deposit account (i.e., certification, see fig.10 element 205, also see col.27 lines 30-39).

Re claim 17. O'leary further discloses the method, wherein providing the transaction account for the user that includes the access card further comprises

providing the access card for the user that allows the user to withdraw funds from the transaction account at a financial transaction terminal (see fig.4, also see col.21 lines 15-30).

Re claim 18. O'Leary further discloses the method, wherein allowing the user to have funds reside in the transaction account further comprises allowing the user to utilize the transaction account as a hub for user transactions (see the abstract).

Re claim 19. O'Leary further discloses the method, wherein allowing the user to utilize the transaction account as the hub further comprises allowing the user to use the transaction account for receiving a person-to-person payment (i.e., pay anyone, see abstract).

Re claim 20. O'Leary further discloses the method wherein allowing the user to utilize the transaction account as the hub further comprises allowing the user to fund the transaction account with funds withdrawn from the designated source account (see col.27 lines 1-15).

Re claims 21 and 22. O'leary further discloses the method, wherein allowing the user to fund the transaction account with funds withdrawn from the designated source account further comprises allowing the user to fund the transaction account with funds withdrawn from at least one of a credit card account and a deposit account as the source account (see col.27 lines 1-15).

Re claim 23. O'Leary further discloses the method, wherein allowing the user to have funds reside in the transaction account further comprises allowing the user to have funds reside in at least one of a save for later portion and a held money portion of the transaction account (see col.11 lines 62-66, see col.21 lines 15-20).

Re claim 24. O'leary further discloses the method, wherein allowing the user to have funds reside in at least one of the save for later portion and the held money portion of the transaction account further comprises allowing the user to view balances of the save for later and held money portions of the transaction account (see col.15 lines 38-45).

Re claim 25. O'Leary further discloses the method, wherein allowing the user to use the funds in the transaction account for making an on-line payment further comprises designating funds in the transaction account for an on-line payment to a recipient according to an instruction by the user (see the abstract).

Re claim 26. O'Leary further discloses the method, wherein allowing the user to use the funds in the transaction account for making an on-line purchase further comprises allowing the user to transaction account by furnishing the on-line merchant the transaction account number (see the abstract)

Re claim 27. O'Leary further discloses the method, wherein allowing the user to use the funds in the transaction account for making an off-line purchase further comprises allowing the user to authorize payment to an off-line merchant for an off-line transaction with funds in the transaction account using a transaction

card provided to the user in connection with the transaction account (see col.22 lines 20-30).

Re claim 28. O'leary further discloses the method wherein allowing the user to use the funds in the transaction account for a cash withdrawal further comprises allowing the user to withdraw funds in cash from the transaction account at a self-service financial transaction terminal using a transaction card provided to the user in connection with the transaction account (see col.21 lines 1-65).

Re claim 29. O'leary further discloses the method, wherein allowing the user to use the funds in the transaction account for making a credit card account payment further comprises allowing the user to authorize a payment to the user's credit card account with funds in the transaction account according to an instruction by the user (see the abstract).

Re claim 30. O'leary further discloses the method, wherein allowing the user to use the funds in the transaction account for making a bill payment further comprises allowing the user to authorize the bill payment through a bill payment service with funds in the transaction account according an instruction by the user (see col.15 lines 31-45).

Re claims 31, 70. O'Leary further discloses the method, wherein allowing the user to use the funds in the transaction account for making an international payment further comprises allowing the user to authorize the international payment through an international payment service with funds in the transaction account according an

instruction by the user (i.e., O'Leary system can pay anyone virtually anywhere, see col.4 lines 40-50).

Re claim 32. O'leary further discloses the method, wherein allowing the user to use the funds in the transaction account further comprises allowing the user to utilize a save for later portion of the funds in the transaction account (see col.11 lines 62-66, see col.21 lines 15-20).

Re claim 33. O'leary does not explicitly disclose the method wherein transaction account further comprises allowing the user to supplement the save for later portion of the funds in the transaction account with a line of credit associated with the transaction account. However, official notice is taken that attaching a line of credit to a transaction account is old and well known in the art, such method is well established in commercial banking where regular checking transaction account is tied to overdraft line of credit, enabling customers to overdraft their regular transaction accounts if there is an insufficient fund in the said account to settle a payment. Thus it would have been obvious to one of ordinary skill in the art to incorporate the old and well-known feature discussed hereinabove into O'Leary to allow funds to be drawn from customer's transaction account even if there is an insufficient fund in the said account to settle a payment.

Re claim 34. Claim 34, though a system claim, recites similar limitations to a method claim 1 supra, and thus rejected using the same art and rationale as in claim 1 supra.

Re claims 35, 36. O'Leary further discloses the system, wherein the means for receiving the enrollment information further comprises means for receiving the information from the user on an enrollment page for the on-line payments service (see col.19 lines 11-25, also see col.23 line 65-col.24 line 25).

Re claims 37, 38. O'leary further discloses the system, wherein the means for receiving the enrollment information further comprises means for receiving information about the user necessary to enable the financial institution to validate that the user is bona fide (see fig.10 element 205, also col.27 lines 30-39).

Re claim 39. O'Leary further discloses the system, wherein the means for receiving the user's designation of the source account further comprises means for receiving the user's designation of at least one of a credit card account and a deposit account of the user as the source account account (see col.27 lines 1-15, also see "The user then provides the following information: the source'of the funds--checking, credit card, savings, etc.; the dollar amount of the transfer; the funding date; and whether this is one time transfer or a repeat transfer, col.27 lines 4-15).

Re claims 40, 41. O'leary further discloses the system, wherein the means for receiving the user's designation of the credit card account as the source account further comprises means for number, a credit card expiration date, and a credit card verifier (see col.5 lines 40-50, also see col.27 lines 1-15).

Re claims 42, 43. O'Leary further discloses the system, wherein the means for receiving the user's designation of the deposit account as the source account further comprises means for receiving the user's designation of the deposit account consisting of a least one of a checking account, a debit account, and a money market account of the user as the source account (see col.27 lines 1-15, also see "The user then provides the following information: the source'of the funds--checking, credit card, savings, etc.; the dollar amount of the transfer; the funding date; and whether this is one time transfer or a repeat transfer, col.27 lines 4-15.

Re claim 44. O'Leary further discloses the means for receiving the information about the deposit account further comprises means for performing a back end validation to confirm that the user is the owner of the designated deposit account (i.e., certification, see fig.10 element 205, also see col.27 lines 30-39).

Re claim 50. O'Leary further discloses the system, wherein the means for providing the transaction account for the user that includes the access card further comprises means for providing the access card for the user that allows the user to withdraw funds from the transaction account at a financial transaction terminal (see fig.4, also see col.21 lines 15-30).

Re claim 51. O'Leary further discloses the system, wherein the means for allowing the user to have funds reside in the transaction account further comprises means

for allowing the user to utilize the transaction account as a hub for user transactions (see the abstract).

Re claim 52. O'Leary further discloses the system wherein the means for allowing the user to utilize the transaction account as the hub further comprises means for allowing the user to use the trust account for receiving a person-to-person payment (i.e., pay anyone, see the abstract).

Re claim 53. O'leary further discloses the system, wherein the means for allowing the user to utilize the transaction account as the hub further comprises means for allowing the user to fund the transaction account with funds withdrawn from the designated source account (see col.27 lines 1-15).

Re claims 54, 55. O'Leary further discloses the system, wherein the means for allowing the user to fund the transaction account with funds withdrawn from the designated source account further comprises means for allowing the user to fund the trust account with funds withdrawn from at least one of a credit card account and a deposit account as the source account (see col.27 lines 1-15).

Re claim 56. O'Leary further discloses the system, wherein the means for allowing the user to have funds reside in the transaction account further comprises means for allowing the user to have funds reside in at least one of a save for later portion and a held money portion of the transaction account (see col.11 lines 62-66, see col.21 lines 15-20).

Re claim 57. O'Leary further discloses the system, wherein the means for allowing the user to have funds reside in at least one of the save for later portion and the held money portion of the transaction account further comprises means for allowing the user to view balances of the save for later and held money portions of the transaction account (see col.15 lines 38-45).

Re claim 58. O'Leary further discloses the system, wherein the means for allowing the user to use the funds in the transaction account for making an on-line payment further comprises means for to an instruction by the user (see the abstract).

Re claim 59. O'Leary further discloses the system, wherein the means for allowing the user to use the funds in the transaction account for making an on-line purchase further comprises means for allowing the user to authorize payment to an on-line merchant for an on-line transaction with funds in the transaction account by furnishing the on-line merchant the transaction account number (see the abstract).

Re claim 60. O'Leary further discloses the system, wherein the means for allowing the user to use the funds in the transaction account for making an off-line purchase further comprises means for allowing the user to authorize payment to an off-line merchant for an off-line transaction with funds in the transaction account using a transaction card provided to the user in connection with the transaction account (see col.22 lines 20-30).

Re claim 61. O'Leary further discloses the system, wherein the means for allowing the user to use the funds in the transaction account for a cash withdrawal further comprises means for allowing the user to withdraw funds in cash from the transaction account at a self-service financial transaction terminal using a transaction card provided to the user in connection with the transaction account (see col.21 lines 1-65).

Re claim 62. O'Leary further discloses the system, wherein the means for allowing the user to use the funds in the transaction account for making a credit card account payment further comprises means for allowing the user to authorize a payment to the user's credit card account with funds in the transaction account according to an instruction by the user (see the abstract).

Re claim 63. O'Leary further discloses the system, wherein the means for allowing the user to use the funds in the transaction account for making a bill payment further comprises means for allowing the user to authorize the bill payment through a bill payment service with funds in the transaction account according an instruction by the user (see col.15 lines 31-45).

Re claim 64. O'Leary further discloses the system wherein the means for allowing the user to use the funds in the transaction account for making an international payment further comprises means for allowing the user to authorize the international payment through an international payment service with funds in the transaction account according

an instruction by the user (i.e., O'Leary system can pay anyone virtually anywhere, see col.4 lines 40-50).

Re claim 65. O'Leary further discloses the system, wherein the means for allowing the user to use the funds in the transaction account further comprises means for allowing the user to utilize a save for later portion of the funds in the transaction account (see col.11 lines 62-66, see col.21 lines 15-20).

Re claim 66. O'Leary does not explicitly disclose the system, wherein the means for allowing the user to use the funds in the transaction account further comprises means for allowing the user to supplement the save for later portion of the funds in the transaction account with a line of credit associated with the transaction account. However, official notice is taken that attaching a line of credit to a transaction account is old and well known in the art, such method is well established in commercial banking where regular checking transaction account is tied to overdraft line of credit, enabling customers to overdraft their regular transaction accounts if there is an insufficient fund in the said account to settle a payment. Thus it would have been obvious to one of ordinary skill in the art to incorporate the old and well-known feature discussed hereinabove into O'Leary to allow funds to be drawn from customer's transaction account even if there is an insufficient fund in the said account to settle a payment.

Re claim 67. O'Leary further discloses the method, wherein receiving the user's designation of a source account for withdrawing funds for the on-line payments further

comprises receiving the user's designation of a credit card account and designating the withdrawn funds as a purchase on the credit card account by a payments engine (see col.5 lines 40-50).

Re claim 68. O'Leary further discloses the method, wherein allowing the user to use the funds in the transaction account *for* making an on-line payment further comprises: receiving an email address and payment amount by a payments engine for a recipient from the user at a user terminal via a network; notifying the recipient by email at a recipient terminal by the payments engine of the payment (i.e., payment confirmation see col.16 lines 35-65); prompting the recipient by the payments engine to enroll *for* the on-line payments service (see col.23 lines 45-67); recipient account to receive the payment and applying the payment amount to the recipient account by the payments engine; and if the recipient declines to enroll, arranging a courtesy check for the payment amount to the recipient by the payments engine (see col.24 lines 22-50).

Re claim 69. O'Leary further discloses the method, wherein receiving the recipient's designation of a recipient account and applying the payment amount to the recipient account further comprises receiving the recipient's designation of a recipient credit card account and applying the payment amount as a payment on the recipient credit card account (see col.27 lines 1-15).

Re claims 71 and 72. Claims 71 and 72 recite similar limitations to claim 1 *supra*, and thus rejected using the same art and rationale as in claim 1.

(10) Response to Argument

In response to the rejection of Claims 1-11, 17-44 and 50-72 under 35 U.S.C 103(a) over O'Leary. The applicant argues in substance that the primary reference, O'Leary fails to teach providing a transaction account for the user as a money deposit account accessible via a single account number that the user can use both as a source from which to send funds and a destination into which to receive funds and with at least one of a plurality of service levels. The applicant's argument is premised on the notion that O'Leary only teaches a combination of two limited function accounts, the first of which (the IPA account) is accessible only via a first secret address from which funds can be sent but into which funds cannot be received. Contrary to the applicant's assertion, O'Leary discloses an Internet Pay Anyone account which user can use both as a source from which to send funds (i.e., The IPA account is a special purpose account with limited functionality for originating electronic payments, see the abstract of O'Leary and col.4 lines 37-55. **Note that since O'Leary is an internet pay anyone account, it is very glaring that funds can originate from this internet pay anyone account. Said another way, O'Leary internet pay anyone account can be used for originating electronic payments and thus is a source from which to send funds).** O'Leary special purpose pay anyone account can also be used as a destination into which to receive funds (i.e., The IPA account 230 is a specialized account used specifically for electronic commerce in accordance with the present invention. Once the IPA account 230 has been established, the user is able to fund this account 230 from its normal DDA checking or savings accounts, consumer's Line of Credit, or credit, or debit card account

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held by the bank 220 or any other account from which the consumer can transfer funds (e.g., another DDA account or credit card account at another financial institution), see O'Leary - col.11 lines 60-66, also col.12 lines 30-40, also see col.16 lines 17-30. **Note the fact that O'Leary special purpose IPA account can be funded from regular checking, credit and savings account shows that O'Leary special purpose IPA account be used as a destination into which to receive/hold funds).**

The applicant further argues that the held money feature for retaining funds in the user's transaction account which the user has designated to be sent to a recipient but which has not yet been picked up by the recipient is not an inherent feature. The examiner maintains that the held money feature is an inherent feature, since funds designated to be sent is normally held against the payer's account until the funds clear or picked up.

All in all, the applicant's challenge in substance the official notice taken by the examiner and states that it is not old and well known in the art to attach a line of credit to a transaction account. Contrary to the applicant's assertion, the examiner contends such a method is notoriously well known in commercial banking where regular checking transaction account is tied to overdraft line of credit, enabling customers to overdraw their regular transaction/checking accounts if there is an insufficient fund in the transaction/checking accounts to settle a payment. Thus it would have been obvious to one of ordinary skill in the art to incorporate the old and well-known feature discussed hereinabove

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into O'Leary to allow funds to be drawn from customer's transaction account even if there is an insufficient fund in the said account to settle a payment.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Ojo O. Oyebisi/

Examiner

Conferees:

/THOMAS A DIXON/
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